

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EUGENE DELBERT WELLS, JR.,

Defendant.

CR-12-18-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on July 20, 2015. (Doc. 42). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on July 16, 2015. (Doc. 41).

Wells admitted to having violated special condition 5 of his supervised release by consuming alcohol. (Doc. 42). Judge Johnston found Wells' admissions sufficient to establish a supervised release violation. *Id.* Judge Johnston recommends that this Court revoke Wells' supervised release. *Id.* Judge Johnston further recommends that the Court sentence Wells to six (6) months imprisonment followed by thirty (30) months of supervised release. *Id.*

Wells' criminal history category is III, the current offense is a Grade C violation, and the underlying offense is a Class D felony. The statutory range is a maximum of 24 months in custody followed by a term of supervised release of up to 36 months, less any custody time imposed. The applicable guideline range is 5 to 11 months in custody followed by a term of supervised release of up to 36 months, less any custody time imposed.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. A sentence of six (6) months imprisonment with a term of thirty (30) months supervised release to follow is sufficient, but not greater than necessary. The conditions of supervised release Judge Haddon imposed on July 10, 2012, shall be continued. (Doc. 29).

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 42) is ADOPTED IN FULL. Defendant Eugene Delbert

Wells, Jr. shall be sentenced to **six (6) months imprisonment** followed by **thirty (30) months of supervised release.**

DATED this 4th day of August, 2015.



Brian Morris
United States District Court Judge